#### TEXT OF THE DECISION

Judge Brantly's Review of the Points in Controversy.

A WELL-WRITTEN OPINION

Reasons Why the Court Denies a Temporary Injunction Against the Butte, Anaconda & Pacific Company.

The following is the text of Judge Brantly's decision in the injunction suit brought by the Montana Union Railway company against the Butte, Anaconda & Pacific Railway company:

In the District Court of the Third Judicial Dis-trict of the State of Montana, in and for the County of Deer Lodge.

dontana Union Railway Com-pany et al., The Butte, Anaconda & Pacific Railway Company et al., Defendants, Plaintiffs,

The Butte, Anaconda & Pacific Railway Company et al.

Defendants.

This is a suit by the plaintiffs against the defendants for damages for trespass alleged to have been committed by the defendants upon their right of way and the line of their road. To their cause of action for trespass the plaintiffs have subjoined an equitable cause of action, alleging that the defendants are threatening to continue the trespasses complained of in the first cause of action, that they are contemplating other violations of the plaintiffs' rights, and that these acts and threatened acts on the part of the defendants will result in irreparable injury to the plaintiffs and that the plaintiffs are without adequate remedy at law. The plaintiffs therefore ask that an injunction issue restraining the defendants from these threatened acts until a final hearing of this cause when all matters in dispute will have been adjudicated, and then that the injunction be made perpetual. By agreement of attorneys, the hearing was upon oral testimeny of witnesses and documentary proof, as upon ordinary trial of causes. The hearing was at chambers on the 28th, 29th and 30th of August, 1893.

The facts as they appear from the proof are the following: Plaintiff, the Montana Railway company, was at one time a corporation organized under the laws of Montana, but whether it is still in existence the proof does not show. The other plaintiff company is in possession of the railway property of the Montana Railway company, including that described in the complaint, and is engaged in operating it, but whether under a lease or otherwise it does not appear. The defendant company is engaged in constructing a railway from the cities of the company is an appear. The defendant company is engaged in constructing a railway from the cities of the control and the company is engaged.

is engaged in operating it, but whether under a lease or otherwise it does not appear. The defendant company is engaged in constructing a railway from the city of Butte to the town of Anaconda, including switches, sidetracks, and spurs at the town of Anaconda and in its vicinity, which may be considered a parallel of the former line between the two points above mentioned and at the latter point. In the vicinity of Anaconda several crossings of the Montana railway are contemplated by the defendant company, but the defendant company is not now engaged in mak-

near which one of the contemplated crossings is situated.

Several other crossings are contemplated, as many as seven or eight, but none of these are complained of except the one last above mentioned and one other, which might be termed a triple crossing because it crosses three branches in close proximity to each other belonging to the Montana Railway company, situated immediately south of the upper works or smelter. The interference mostly complained of is at a point a short distance east of the upper works, and consists of the defendant company's putting its line of road at one point within 15 feet of the road of the plaintiff Montana Railway company and within 15 feet at other points along the line of the spur or switch-back running to the ore houses of the upper works of the Anaconda Mining company. In prosecuting the work of excavation along this switchback or spur, the contractors, Toole and Twohy, make use of the track of the Montana Railway company for tramway purposes in wasting material. Their tramway is a temperary tractors, Toole and Twohy, make use of the track of the Montana Railway company for tramway purposes in wasting material. Their tramway is a temporary structure, running for 200 or 399 feet along the ties of this switchback, and for a part of the way between the rails to a gulch towards the east from that point where they waste the debris of excavation. In wasting their material or debris, they have dumped quantities of it against the supports of a bridge crossing this gulch belonging to the Montana railway, and have so injured the said bridge as to render it unsafe. This use of the track is for construction purposes only and is not intended to be permanent. The injury to the bridge could be repaired at an expense of probably not more than \$1,000. The use of the track was going on at the beginning of this suit and was stopped by the restraining order issued herein on the 17th of August, 1893. Since that time a large quantity of dirt and other debris dumped against the supports of the said bridge has been removed. By the dumping of this dirt into the gulch the defendants were building an approach for a bridge which they expect to build over the gulch for the defendant company. The injury done to the bridge seems to have been accidental rather than wilful or intentional.

A short distance to the west of this

A short distance to the west of this point the defendants, in prosecuting their work of excavation some days prior to the beginning of this suit, left for some space beginning of this suit, left for some space insufficient support between their excavations and the plaintiff's track, but had substantially repaired this before the beginning of this suit by moving a few feet to the south the track of the plaintiff to what was the original line of the said track when this spur was constructed in 1889 or 1899. The excavations of defendants are completed at this point, but are still in progress towards the east and along the line where the tramway is used for dumping purposes. The proof is not clear as to whether the defendants have occupied any part of the original road bed of the plaintiffs at the point where the track was moved, nor does it appear

clearly what the character or extent of the Montana Railway company's title is to any right-of-way along this spur. The most that can be said of it is that this title is merely a posessory right by way of license from James B. Haggin, one of the principal owners of the stock of the Anaconda Mining company, and the owner of the lands along this part of the road. The deeds introduced by the plaintiffs failed to disclose any title in either of them from Haggin. The defendant company has laid off its road and entered upon the work of construction under a license from James B. Haggin, the owner of the land over which both roads run. It further appears that the spur in controversy has not been used for several weeks owing to the closing down of the smelter, and it was hinted in the proof that this closing down was brought about by the manager of the Anacanda Mining company in order to render the road useless for the time being so that the defendant company could get its road done without having to pay too heavy damages.

It further appears that the work of

the defendant company could got its road done without having to pay too heavy damages.

It further appears that the work of building the new line of road has been going on near the place where the interference complained of is fer some four weeks or more with the full knowledge of the plaintiffs. Some time in the latter part of July the president of the Montana Union Railway company went over the whole ground along the spur or switchback with Mr. Daly, the manager of the Anaconda Mining company and one of the directors of the defendant company, and though be understood the character of the work being done and to be done along the line he made no objection to any part of it. From that time till this suit was brought the work went on steadily with full knowledge on the part of the plaintiff, without objection or protest from him until this suit was brought. It further appears that some damage was done to the bridge above mentioned, some time in the early part of July, but this was repaired at the cost of the defendants. It also appears that at a subsequent time and before the beginning of this suit, the president of the Montana Union Railway company knew of temporary obstructions being placed upon the track by the defendants in the progress of their work along the switchback or spur, but made no protest or objection thereto, except to caution them to take them off soon, adding that if this should be done it would be all right.

The plaintiffs insist that under these facts they are entitled to an injunction restraining the defendants, first, from making any crossing over plaintiff's track until they are authorized to do so by this court, and, second, from prosecuting their work along this switchback or spur until they have applied to this court to have their right of way condemned by this court.

1. The constitution of Montana guarantees to every railroad company the

1. The constitution of Montana guar-1. The constitution of Moutana guarantees to every railroad company the right with its road to intersect, connect with or cross any other railroad. The constitution also provides that private property shall not be taken or damaged for public use without just compensation having been made to or paid into court for the owner. Under these provisions of the constitution while the defendant would perhaps have the right to make the crossings contem-Butte to the town of Anaconda, including switches, sidetracks, and spurs at the town of Anaconda and in its vicinity, which may be considered a parallel of the former line between the two points above mentioned and at the latter point. In the vicinity of Anaconda several crossings of the Montana railway are contemplated by the defendant company, but the defendant company is not now engaged in making any of said crossings, nor has it made and the company is not now engaged in making any of said crossings, nor has it made any of the formation of the company is not now engaged in making any of said crossings, nor has it made any of the company is not now engaged in making any of said crossings, nor has it made any of the company is not now engaged in making any of said crossings will probably be. There has been no interference, nor any threatened interference, by the defendant or its employes or contractors, with any of the right-of-way, road bed, nor operations of the Montana Railway company or the other plantiff company, at any point on its main line. The Montana Railway company or the other plantiff company, at any point on its main line. The Montana Railway company and be south line of section 35, township 5 north, range II west.

About midway between the upper works and the concentrator of the same conship 5 north, range II west.

About midway between the upper works and the concentrator a spur or switch-back branches off on the north of this back branches off on the north of this back branches off on the north of the spur last above mentioned of the Montana Railway company and the contemplated rossings is situated.

Several other crossings are contemplated of except the one last above mentioned and one ofter, which might be termed a triple crossing because it crosses three branches in close troximity to each other belonging in close to the contemplated of except the one last above mentioned and one ofter, which might be termed a triple crossing because it crosses three branches in close troximity to each oth

much entitled to be protected from vexatious litigation and from fruitless cost and annoyance as one which has its enterprise completed and in full operation. A railroad company with an established business has no more right to vex and harass a new company in the first beginnings of its enterprise by troubling it with premature litigation than has the new company to take and appropriate to its own use the property, privileges and franchises of the old company. There is no doubt from the proof introduced in this case that the defendant company, in order to complete its enterprise, must make several crossings over the property and line of the plaintiff company's. It has already made some crossings, but these have been adjusted by negotiations between the parties themselves. From the proof it seems that several contemplated fully as much as those complained of, will also have to be made. For some reason best known to the plaintiffs themselves they have chosen to complain of certain crossings in the vicinity of the smelting works of the Anaconda Mining company and no others. Those crossings the defendant has made no attempt to make beyond locating the line over which it proposes to lay its road. It has done no work in the immediate vicinity of these crossings. It has not occupied the right-of-way of the plaintiffs, nor done any act, nor threatened to do any, that would seem to indicate an intention on its part to violate any rights of the plaintiff with reference to these crossings. It is but too apparent, so far as this branch of the case is concerned, that the plaintiffs, being rival companies, are anxious to prevent the is concerned, that the plaintiffs, being ri-val companies, are anxious to prevent the defendant company from putting its road into such a position that it can share with the plaintiff company a large amount of business now controlled exclusively by the plaintiffs. Until the defendant company has manifested some intention to make these crossings in vio-lation of law and the plaintiff's rights, the plaintiffs will not be allowed to vex and harass the defendant nor its conand harass the defendant nor its con-tractors and employes by premature liti-gation. If the defendant and employes hereafter manifest by their acts that they have no regard for the plaintiff's rights and attempt to appropriate their prop-erty without their consent, it will be re-strained upon a proper application to this court. So far as the crossings are con-cerned this application is denied for the present.

present.
2. The other branch of the case pre-[Continued on the Eighth Page].

divertisements under this head one cent per word each insertion; special rates on contract for definite periods. No advertisement accepted

OR BALE—Lot in Montrose Addith Acts.
Address N, Standard office, Buste, FOR SALE OR RENT - A good paying butcher shop at Burlington, Mont. Jas. FOR SALE OR RENT - Montana Central ho-

I tel at Butte; pool location; street care pass from all parts of the city; is full stand rooms; good bur room, large, handsome unique room; wid rest furnished or unfurnished healthlock from Great Northern depot, frees P. H. Tdole, 22 Utah avenue, Butte, P. D. box

MISCELLANEOUS.

WANTED-To buy a single light delivery wagon. P. O. box 252, Butta. WANTED.—A situation as nurse or peaker of a sick person. Apply that, standard, Butte.

WANTED — A position as company nurse to a sick lady by, a middle lady. Address Box ell, Butte, Montana. FURNISHED ROOMS for housekeeping, also front rooms for rent. 385 South Main st.

CAME to my ra zeh, a sorrel horse, four white feet, branded with diamond and haif circle in centre of left sl, oulder. Call on or address George Clark, Pipe tone Springs.

M RS, J. HELD, ch drvoyant medium, locating mines a specialty. 29 East Park St., Butte. CHARLES SULLIVAN, city scavenger; day or night work; proprietor odoriess pumps; mail orders will receive prompt attention. 400 South Colorado street, Butte.

L OST-Strayed or stolen, a dapple gray mare, brand P. O. on left hip, with tall cut off about even with flank; newly shod. 55 reward for return of same to Dr. W. C. Hard-ing, South Butte.

LOST.—A bay horse, branded with H. on left neck, and hart brand on left shoulder. The other a mare branded 7 on left hapf and B. on left jaw. Reasonable reward for freturn to Geo l'helps' ranch, 2 miles northwest of Walkerville.

Draper, deceased. Notice is hereby given by the undersigned, administrator of the estate of Birdle Draper (known as Birdle Millerydo-ceased, to the creditors of, and all persons having claims against the said deceased, to exhibit them with the neessary vouchers, within four months after the first publication of this notice, to the said administrator at Garriaon, or to W. H. Trippet, the attorney for said estate, at Deer Lodge, the same being the place for the transaction of the business of said estate in the county of Deer Lodge, state of Montane.

Administrator of the estate of Birdle Drapes, deceased.

RESOLUTION—Resolution ordering the construction of a sanitary sewer on Main treet in the city of Anaconda, and providing for the advertising for bids for the same.

Be it resolved by the city council of the city of Anaconda, That a sanitary sewer to be constructed of vetrified clay pipe twelve (12) isobes in diameter properly connected with all necessary man ways, and appurtenances for connecting house drains be and the same is superby ordered constructed on Main street from a point sixty-five (65) fees south of the south line of First street to a point twenty (29) feet north of the south side of Front street in the city of Anaconda.

The same to be constructed under the supervision of the city engineer of said city as a part of said sanitary system; and for the purpose of completing and providing connections with said sewer system for the said part of said city. And be it further resolved that the city cierk is hereby author zed and ordered to advertise for bids for the construction of said sewer above mentioned and described, and said bids to be filed in the office of said city cierk not later than the 30th day of September, A. D., 1830.

Passed and approved this 28th day of August,

Dated. April 3, 1893

Passed and approved this 28th day of August, W. M. THORNTON, Mayor.

Attest— Mayor.

John C, English. City Clerk.

OFFICE OF THE CITY CLERK
OF THE CITY OF ANACONDA.

DEER LODGE COUNTY, MONTANA.

I hereby certify that the above and foregoing resolution was regularly put upon its final bassage and duly passed by the city council of the city of Anaconda and approved by the major of add city on the 28th day of August, A. D., 1882.

In winess whereof I have set my hauf and smy of August, 1882.

John C, English.

Seal.]

JOHN C, English.

Cly Clerk.

NOTICE TO CONTRACTORS.—Sealed proosals will be received by the city co

Mining Application, No. 3344.

an area of 6.70 acres.

Total area of this gram up claimed 47-05 acres.

The original location coefficient of the High

A page 6.

The Bonanza Chief loda, unsurveyed, adjoins this roup on the south vest, and the Silver Reef Mili Site, Sur. No. 23 3 B. adjoins on the

AN IDEAL FAMIL MEDICINE
For Indigention, Billionne M.
Henducke, Countripation, E.
Complexion, Offensive Streat L.
and all disorders of the Stemes. and all disorders of the Section.
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RIPANS TABULES
not gestly yet premptly. Forfeet
dispetion follows their use. Soil
by druggists or sont by mail. Box
6 whale, ike, Pechago (1 boxes, §2.

Concentration



HARDWARE

STORES: ANACONDA AND BUTTE

GOLD BAR MINING CO. — Location of mines of which is in an unorganized mining district at the head of Warm Springs creek, Deer Lodge county. Montana. Nortice—There is delinquent upon the following described stock, on account of Assessment No. 1, payable Sept. 16, 1892, Assessment No. 2, payable Jan. 10, 1893, Assessment No. 3, payable Aug. 12, 1883, the several amounts set opposite the names of the respective shareholders, as follows:

NAMES NO. 2. Joseph Schoft
Geo Busch and Geo Albeck
Henry Uhang
James McNatty
Herman Hoffman
Thos Leary

A J McDonald ..

Dan J Finiayson...... W F Musser..... JC English

FERD, KENNETT,

Capital.

Surplus and Profits.

And in accordance with law so mapy shares of each parcel of said stock as may be necessary will be sold at No. 201 East Front street, in the city of Anaconda, state of Montana, on inesday, the 5th day of September, 1833, at 8 o'clock p. m. of said day, the pay said delinquent assessment thereon, together with costs of advertising and expenses of saie.

ERNST JAECKEL, Secretary.
203 East Front Street, Anaconda.

G. A. WOLF, Cashier.

WESTERN

Montana National Bank,

MISSOULA, MONTANA.

Dan J McDonald Herman Hoffman
Thos Leary
Frank W Stebbins

JOHN C. ENGLISH,

I'v posals will be received by the city council
of the city of Anaconda, at the office of the city
blerk until 6 a'clock p. m., Sent. 33, 1833, for the
construction of a sanitary sewer on Main street
from a point sixty-five (65) feet south of First
street to Front sirect.

Flans, specifications and forms for bids may
be seen at the office of the city cierk.

All bids must be accompanied by a certified
check for the sum of \$200.

The city reserves the right to reject any or all
bids.

Dids.
Dated this soth day of August, 1893.
JOHN C. ENGLISH, City Clerk.
IFirst publication Aug. 39.1

Mining Application, No. 3344.

U. 8. LAND OFFICE, Helena, Montana, Aug.
L. 1893. Notice is hereby given that Harriet T. Galt, by William S. Turner her attorney in fact, whose postoffice address is claipe, Dear Lodge County, Montana, has this day filed her application for a patient for 1560 linear feet of the HIDDEN TREASURE lode, 1550 linear feet of the SILVIER CHAIN lode mining claims, situated in Silver Lake Mining District, County of Deer Lodge, State of Montana, and designated as Surveys No. 2492, 2493A, and 4236, embracing a portion of fractional T. 5 N. R. 13 W., and being more particularly described as follows, O.Will.

a portion of fractional T. 5 N., R. 13 W., and being more particularly described as follows, to-wit:

Hidden Treasure lode; Sur. No. 2492; Beginning at the southwest corner, a point on the north shore of Silver Lake, referenced by witness corner, to mit from which linitial Point No. 2, in T.5 N., R. H. W., bears S. 12 deg. 38 min. 11 sec. E. 130 3 feet and running thence N. 33 deg. 35 min. E. 1500 feet, It tence S. 63 deg. 55 min. E. 640 feet, thence S. 83 deg. 95 min. W. 1500 feet, thence N. 63 deg. 55 min. W. 604 feet, to the place of beginning, co u. alming an area of 20.64 aeres.

Silver Reef Lode; Sur. No. 2483A. Leginning at the southwest corner, a limestone 22x14x3 ins. set 16 ins. deep, with a mount of earth alongside, and marked 1-2483A for cdr. No. 1 from which he linitial Point No. 2 in T. 5. N., R. 13 W. bears S. 5 deg. 27 min. 69 sec. W. 3838. 5 feet, and running thence S. 63 deg. 55 min. E. 620 feet, thence S. 44 deg. 15 min. E. 1865 feet, thence N. 31 deg. 10 min. W. 2805 feet, thence S. 44 deg. 15 min. E. 1865 feet, thence N. 63 deg. 55 min. B. W. 378 feet, thence S. 44 deg. 15 min. E. 1865 feet, thence N. 63 deg. 55 min. a. W. 378 feet, thence S. 44 deg. 15 min. S. 1865 feet, thence N. 63 deg. 55 min. S. W. 378 feet, thence S. 44 deg. 15 min. W. 1500 best to the place of beginning at the southeast corner, a limestone 22x12x10 ins. set, 16 ins. des 50 with a mound of earling at the southeast corner, a limestone 22x12x10 ins. set, 16 ins. des 50 with a mound of earling the southeast corner, a limestone 22x12x10 ins. set, 16 ins. des 50 with a mound of earling at the southeast corner, a limestone 22x12x10 ins. set, 16 ins. des 50 with a mound of earling the feet and running the ence N. 33 deg. 5.5 min. E. 705.5 feet, thence N. 63 deg. 55 min. W. 30 feet, thence N. 64 deg. 15 min. W. 30 feet, thence O. 44 deg. 15 min. W. 30 feet, thence O. 44 deg. 15 min. W. 30 feet, thence of 64.0 acres.

Total area of the ger of beginning containing an area of 64.0 acres.

o th-east.

S. A. SWI GGETT. Register,
John Gille, attorney for A pplicant.
First publication, September 2, 1893.

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Woman.

A TESTIMONIAL.—The names of persons cured are withheld, but in many instances I have permission to furnish the address on condition of privacy. Neletter or names will be published without the consent of the writer. Read the following letter:

BULLITAL City: I desire to make the following statement relative to my case in the hope that other unfortunate sufferers like myself may be equally benefited. I had been suffering for about three years from seminal weakness, lost manhood and nervous prostration, causing melanchoity and loss of sieep. My body was covered with ulcers and my forelead being swellen just over the eyebrows so badly as to have the appearance of growing hors. I was unable to obtain more than one hour a uninterrupted sieep at one time, the terrible itching and mental suffering caused by my diseas making it impossible for me to site epor erst. When my disease first appeared I consulted local physicians without relief. I then attempted to cure myself by using patent medicines, but again failing I consulted and was tracted by several American specialists, who also failed to cure me. I was despaired of ever being cured, but a friend of mine recommending you I deolded to try once more and so put myself under your care with the result fast after only two weeks' treatment I feel like a new man and am able to return to my work. I take pleasure in certifying to this statement before a notary public and will recommend you personally to all my friends and acquaintances.

Subscribed and swora before me on this 10th day of November, 1882. C. L. CAMPBELL, Notary Public.

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our clain that we have greater success than other so-cailed specialists in the following discases:

Eye, Ear, Throat and Nose, such as Cataract, Crose Eyes, Granular Lids., Deadness, Ringing in the Ears, Enlarged Tonsiis. Catarris, and all diseases requiring surgical operations.

Discases of Moss—Gonormoea, Gleet, Stricture, Epidydimitis, Varicocele, Hydrocele, Rupture and Syphilis in all the varied forms—Errors of youth, causing Spermatorrhea, prostratorrhea, Seminal Weakness, Lost Manhood.

Biscases of Wossen—Prolapsus, Ante and Retro Version of the Womb, Leucorrhea and all diseases peculiar to the sex.

Discases of the Stream—Piles, Fistula, Fissure, and Rectal Ulcers, cured without pain or detention from business.

All Chronic and complicated diseases of the Blood, Skin and Nervous System. We manufacture appliances for all forms of Deformities, successful treatment in all curable cases assured by our remedies, which we import for special diseases. Our patients have the beneat of expert treatment same as if in Chicago.

Consultation free and confidential. Fatients at a distance not able to consult us personally can do so by writing to P. O. Box 140; Butte, Montana, for terms for our Home Treatment.

The surgical and medical treatment and remedies received at the Butte offices is identical with that given in Ban Francisco. One of the dectors from the Kansas City, Mo., division of the Liebiy World Dispensary is the attending physician and surgeon to the Butte offices of Dr. Liebiy & Co. now having such remarkable success in chronic and private diseases.

Belena offices, is South Main street, in charge of our leading Chicago specialist.

L TOUSE OF THE GOOD SHEPHERD, HELENA, KONT.

House of refuge for failen women. Preserva-tion class for girls in actual danger of losing their virtue. Are taught all kinds of useful work, and find plenty of innocent amusement. Address:

MOTHER SUPERIORESS. House of the Good Shepherd, Helena, Most.

TRY A CHEAP "AD" IN THE STANDARD.

# The Wool Growers' Association

UBET, MONTANA, JULY 25, 1893.

To the Wool Growers of Mo

A meeting of the Wool Growers' associa-A meeting of the Wool Growers' association of Montana is hereby called, to assemble at Great Falls on the 5th day of September, 1893. All wool growers of the state are earnestly requested to be present to consider questions of the highest importance relative to the industry in the state. Delegates are to be elected to attend the National Association of Wool Growers to be held in Chicago on October 5th, 1893. Do not make the mistake of thinking that you have not the time to attend.

B. C. WHITE, President,

B. C. WHITE, President,
A. C. LOGAN, Secretary, Ubet, New
Springdale, Mont.

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ST. MARY'S ACADEMY DEER LODGE, MONT.

Studies will be resumed the first week of September, 1893. Terms moderate. Send reference. For catalogue, etc., address as above.

NOTICE TO CREDITORS.—Estate of Anne Frolin, deceased. Notice is hereby given by the undersigned, administrator of the estate of Anne Frolin, deceased, to the creditors of, and all persons having claims against the said deceased, to exhibit them with the necessary youchers, within four months after the publication of this notice, to the administrator at Garrison. Mont., or to W. H. Trippet, the attorney for and estate at Deer Lodge, Mont., the same being the place for the transaction of the business of said estate in the county of Deer Lodge, state of Montana.

B. F. Brown, Administrator of the estate of Anne Frolin, deceased. Dated April 3, 1893.

# 

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